

### **REMARKS/ARGUMENTS**

The Applicant appreciates the Examiner's consideration of the present Application. In the Office action, claims 1, 2, 4, 5, 8, 9, 19-21, 29-32, 34, 36 and 37 were rejected under 35 U.S.C. 102(e) as being anticipated by Floyd (U.S. Patent Application Publication No. 2003/0095336). Additionally, claims 1, 2, 4, 6-8, 10, 11, 13, 22-24, 27-29, 33 and 34 were rejected under 35 U.S.C. 102(b) as being anticipated by Silver (UK Patent Application GB 2184562 A).

The Applicant additionally appreciates the Examiner's indication that several of the claims, although objected to, would nevertheless be allowable if rewritten in independent form. More particularly, claims 12, 14-18, 25, 26 and 35 appear to be within this category. Additionally, although in the Office Action Summary (page 1 of the Office action) claim 7 is indicated as being objected to and claim 3 is indicated as being rejected, in the main body of the Office action rather it appears that it is claim 3 that was objected to, with claim 7 instead being rejected under 35 U.S.C. 102(b) as being anticipated by Silver. Since the main body of the Office action sets forth in detail the particular reasons for the rejections and objections, the Applicant presumes that the Office Action Summary is incorrect in its listing as regards claims 3 and 7, and that claim 3 is in fact the claim that the Examiner considered to be allowable if rewritten in independent form.

In view of the Office action, the Applicants have amended the claims as shown above and discussed further below. Subsequent to these amendments, claims 2-21, 23-28, 30-33 and 35-37 are pending. Additionally, for at least the reasons set forth below, the Applicants respectfully submit that all of the aforementioned pending claims are in condition for allowance.

The Applicants also wish to note that, in the Office Action Summary, a claim to foreign priority is indicated. The Applicants wish to remind the Examiner that, more accurately, the present Application is a national phase application based upon international (PCT) patent application number PCT/US2005/010948, which claims priority to U.S. provisional patent application no. 60/558,293.

Amendments to Original Claims 1-35 and Allowability of Resulting Claims

As shown above, each of dependent claims 3, 12, 14, 25 and 35 have been rewritten in independent form. Claim 3 has been rewritten to include the limitations of original claims 1 and 2 from which that claim originally depended. Also, claim 12 has been rewritten to include the limitations of original claims 1, 8, 10, and 11 from which that claim originally depended. Further, claim 14 has been rewritten to include the limitations of original claims 1, 8 and 10 from which that claim originally depended. In this regard, amended claim 14 also includes the limitations of original claim 11, which appear to be appropriate in view of antecedent basis considerations. Additionally, claim 25 has been rewritten to include the limitations of original claim 22 from which that claim originally depended. Also, claim 35 has been rewritten to include the limitations of original claims 29 and 34 from which that claim originally depended.

Aside from the aforementioned amendments, certain additional amendments have also been made to the original claims 1-35. In particular, claims 1, 22, 29 and 34 have been cancelled. Further, each of dependent claims 2 and 11 has been amended to depend from new independent claim 12, each of dependent claims 4, 8, 19, 20 and 21 has been amended to depend from new independent claim 3, each of dependent claims 23 and 27 has been amended to depend from new independent claim 25, and each of dependent claims 30, 32 and 33 has been amended to depend from new independent claim 35.

With respect to the newly-independent claims 3, 12, 14, 25 and 35 in particular, substantially all of the limitations added to these claims are identical to the limitations that were already present in the original claims from which those claims originally depended (plus, in the case of claim 14, the limitations found in original claim 11). To the extent that the limitations are not identical, the language of those limitations has only been modified slightly for technical reasons, for example, to improve grammar (or readability) or to correct antecedent basis issues. For example, with respect to claims 12 and 14, the claim language added from original claim 8 has been modified to state that it is the first and second sides of the "first partition" rather than the "flexible membrane" that are respectively adjacent to the first and second fluidic media, since the term "flexible membrane" has no antecedent basis within those claims.

Certain other amendments made to the claims have also been made for technical reasons. For example, the original language of claim 35 has been amended to state that it is the "second structure" that includes the second cavity and a third cavity, since the original language (particularly the term "additional structure") lacked antecedent basis.

In view of the nature of the aforementioned amendments, the Applicants respectfully submit that none of these amendments have involved the addition of new matter to the present Application. Further, the Applicants submit that the amendments that have been made for technical reasons (e.g., to correct an antecedent basis issue) have not been made for reasons substantially related to the patentability of the claims.

Given the Examiner's indication that claims 3, 12, 14, 25 and 35 would be allowable if rewritten in independent form so as to include all of the limitations of their respective base claims and any intervening claims, the Applicants respectfully submit that each of these claims, as now rewritten, is allowable. Further, the Applicants also submit that each of the other claims 2, 4-11, 13, 15-21, 23-24, 26-28 and 30-33 depending from claims 3, 12, 14, 25 and 35 is allowable as well.

#### Claims 36-37

Original independent claim 36 has also been amended. The amendments to claim 36 correspond substantially to the language of original claims 1-3, and consequently are not believed to add new matter to the present Application. Since dependent claim 3 in particular was indicated as being allowable, the Applicants submit that both independent claim 36 as well as claim 37 depending therefrom are allowable for at least the same reasons as newly-independent claim 3 is allowable.

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Conclusion

Given the Applicants' remarks and amendments, the Applicants respectfully request reconsideration and allowance of the present Application.

It is believed that no fees are due in connection with the present Amendment and Response, for the purposes of any extension of time. As for claims amendments, the Applicant is submitting herewith a fee suitable in view of the claim amendments herein. Further, if it is deemed that additional fees are in fact required in connection with the present Amendment and Response, for the purposes of any extension of time or in view of the claim amendments (or otherwise), the Applicant hereby authorizes payment of such fees and requests that such fees be charged to Account No. 23-2053.

The Applicants wish to invite the Examiner to telephone the Applicant's attorney at the number listed below if discussion with the Applicant's attorney would be of assistance to the Examiner or further the prosecution of the present Application.

Respectfully submitted,



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